

Assembly Bill No. 2554

CHAPTER 602

An act to amend Sections 2 and 16 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), relating to the Los Angeles County Flood Control District.

[Approved by Governor September 30, 2010. Filed with
Secretary of State September 30, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2554, Brownley. Los Angeles County Flood Control District: fees and charges.

Existing law, the Los Angeles County Flood Control Act, establishes the Los Angeles County Flood Control District and authorizes the district to control and conserve the flood, storm, and other wastewater of the district. The act declares the district to be a body corporate and politic, and to have various powers, including the power to cause taxes to be levied and collected for the purpose of paying any obligation of the district.

This bill would authorize the district to impose a fee or charge, in compliance with Article XIII D of the California Constitution, to pay the costs and expenses of carrying out projects and providing services to improve water quality and reduce stormwater and urban runoff pollution in the district in accordance with specified criteria. The bill would require that any fees imposed be levied and collected together with taxes for county purposes, and the revenues paid into the county treasury to the credit of the district. The bill would require the county board of supervisors to expend the funds to pay for those costs and expenses, to be allocated as prescribed.

The act authorizes the board of the district, subject to certain limitations, to do all acts or things necessary or useful for the promotion of the work or the control of the floodwater and stormwater of the district, to conserve those waters for beneficial and useful purposes, and to protect from damage from floodwater and stormwater, the harbors, waterways, public highways, and property of the district. One limitation upon the authority of the board of the district is that it is not authorized to raise money for the district by any method or system other than by issuing bonds, or the levying of a tax upon the assessed value of all the real property of the district, except from the sale and lease of its property.

This bill would instead provide that the board of the district is not authorized to raise money for the district by any method or system other than by issuing bonds, the levying of a tax, or the imposition of a fee or charge in compliance with Article XIII D of the California Constitution.

The people of the State of California do enact as follows:

SECTION 1. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), as amended by Section 33 of Chapter 1276 of the Statutes of 1975, is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve these waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within the district, or to save or conserve in any manner, all or any of these waters, and to protect from damage from flood or storm waters, the harbors, waterways, public highways and property in the district.

The Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and has all the following powers:

1. To have perpetual succession.
2. To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.
3. To adopt a seal and alter it at pleasure.
4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.
5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.
6. To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.
7. To incur indebtedness, and to issue bonds in the manner herein provided.
- 7a. To borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable nonprofit corporation to lend money to the Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4 ¼%) per annum, payable semiannually, and, without the necessity of an election when authorized by

resolution of the board of supervisors, as evidences of that indebtedness, the district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairperson of the board of supervisors of the district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in the resolution of the board of supervisors providing for their issuance, and notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of the chairperson of the board. All applications for these loans shall specify the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of the work, the surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually levy a tax upon the taxable real property of the district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by resolution of the board of supervisors. However, the amount of taxes levied in any year, pursuant to this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any year, to levy taxes under Section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection. Notwithstanding any other provisions of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the reserve fund of the district to meet the principal and interest falling due on these bonds.

Notwithstanding anything in this subsection to the contrary, the total amount the district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars (\$4,500,000).

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of the district to the County of Los Angeles and the purchase thereof by the county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exceed four million five hundred thousand dollars (\$4,500,000).

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner provided in this section.

8a. To impose a fee or charge, in compliance with the applicable provisions of Article XIII D of the California Constitution, to pay the costs and expenses of carrying out projects and providing services to improve water quality and reduce stormwater and urban runoff pollution in the district in accordance with criteria established by the ordinance adopted pursuant to subsection 8c. Any fee that is imposed pursuant to this subsection shall be levied and collected together with, and not separately from, taxes for county purposes, and the revenues derived from the fees shall be paid into the county treasury to the credit of the district, and the board of supervisors shall expend these funds to pay for costs and expenses in accordance with this subsection.

8b. The district shall allocate the revenues derived from any fee or charge imposed pursuant to subsection 8a as follows:

(A) Ten percent shall be allocated to the district for implementation and administration of water quality programs, as determined by the district, including activities such as planning, water quality monitoring, and any other related activities, and for payment of the costs incurred in connection with the levy and collection of the fee and the distribution of the funds generated by imposition of the fee, as established by the ordinance adopted pursuant to subsection 8c.

(B) Forty percent shall be allocated to cities within the boundaries of the district and to the County of Los Angeles, in the same proportion as the amount of fees collected within each jurisdiction and within the unincorporated territories, to be expended by those cities within the cities' respective jurisdictions and by the County of Los Angeles within the unincorporated territories that are within the boundaries of the district, for water quality improvement programs, as established by the ordinance adopted pursuant to subsection 8c.

(C) Fifty percent shall be allocated to nine watershed authority groups that shall be authorized by the ordinance adopted pursuant to subsection 8c, in the same proportion as the amount of fees collected within each watershed, to implement collaborative water quality improvement plans or programs in the watersheds as established by the ordinance adopted pursuant to subsection 8c. Those nine watershed authority groups shall be established for the Ballona Creek, Dominguez Channel, Upper Los Angeles River, Lower Los Angeles River, Rio Hondo, Upper San Gabriel River, Lower San Gabriel River, Santa Clara River, and Santa Monica Bay watersheds. The watershed authority groups shall be established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. The implementation of a collaborative water quality improvement plan or program by a watershed authority group shall require the consent of any watershed authority group member whose jurisdiction comprises more than 40 percent of the total land area in a watershed.

8c. The governing board of the district shall adopt an ordinance to implement the authority granted pursuant to subsections 8a and 8b.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in the district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by the Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of the district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract if the amount payable to the contractor exceeds five million dollars (\$5,000,000); provided, that the specifications in these cases shall specifically so provide and state that the bidder shall not include in his or her bids the cost of furnishing the required bonds.

13. To lease, sell or dispose of any property (or any interest therein) whenever in the judgment of the board of supervisors of the property, or any interest therein or part thereof, is no longer required for the purposes of the district, or may be leased for any purpose without interfering with the use of the same for the purposes of the district, and to pay any compensation received therefor into the general fund of the district and use the same for the purposes of this act. However, nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when the use is not inconsistent with the use thereof by the district for flood control and water conservation purposes; or except as provided by Section 17 of this act. However, the district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for the land or interests in land, all lands and interests in land, now owned or hereafter acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of the district which shall not interfere, or be inconsistent, with the primary use and purpose of the lands, facilities, and works by the district.

15. In addition to its other powers, the district shall have the power to preserve, enhance, and add recreational features to its properties and upon a finding by the board of supervisors that the acquisition is necessary for those purposes, to acquire, preserve, enhance, and add recreational features

to lands or interests in lands contiguous to its properties, for the protection, preservation, and use of the scenic beauty and natural environment for the properties or the lands and to collect admission or use fees for the recreational features where deemed appropriate.

The district by or through its board of supervisors, or other board or officers at any time succeeding to the duties or functions of its board of supervisors, is hereby authorized and empowered to warrant and defend the title to all land and interests therein so conveyed to the United States of America or to any agency and its respective assigns; to covenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any agency, to which lands or any interest therein are so conveyed by the district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any defect or defects whatsoever in the title to any land or interest in land so conveyed by the district; to reimburse and save harmless and exonerated the United States of America or any agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any claim to or defect or defects whatsoever in the title to any land or interests in land so conveyed by the district; to pay all just compensation, costs and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or that agency, in order to perfect title to any land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses or damages incurred or suffered by the United States of America or that agency; and consent is hereby given to the bringing of suit or other legal proceedings against the district by the United States of America or that agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract or covenant made or entered into by the district pursuant to the authority granted in this act, or to enforce any claims, damages, loss or expenses arising out of or resulting from any defect whatsoever in the title to the land or any interest therein or any claims of others in or to the land or interest therein.

SEC. 2. Section 16 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), as amended by Section 6 of Chapter 1276 of the Statutes of 1975, is amended to read:

Sec. 16. (a) The board of supervisors of the district shall have power to make and enforce all needful rules and regulations for the administration and government of the district, and to perform all other acts necessary or proper to accomplish the purposes of this act.

(b) The board of supervisors shall have power to do all work and to construct and acquire all improvements necessary or useful for carrying out any of the purposes of this act; and the board of supervisors shall have power

to acquire either within or without the boundaries of the district, by purchase, donation or by other lawful means in the name of the district, from private persons, corporations, reclamation districts, swampland districts, levee districts, protection districts, drainage districts, irrigation districts, or other public corporations or agencies or districts, all lands, rights-of-way, easements, property or materials necessary or useful for carrying out any of the purposes of this act; to make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers conferred by this act, or arising out of the use, taking or damage of any property, rights-of-way or easements, for any of these purposes; to compensate any reclamation district, protection district, drainage district, irrigation district or other district, public corporation or agency or district, for any right-of-way, easement or property taken over or acquired by the Los Angeles County Flood Control District as a part of its work of flood control or conservation or protection provided for in this act, and any reclamation district, protection district, drainage district, irrigation district or other district or public corporation or agency is hereby given power and authority to distribute compensation in any manner that may be now or hereafter allowed by law; to maintain actions to restrain the doing of any act or thing that may be injurious to carrying out any of the purposes of this act by the district, or that may interfere with the successful execution of that work, or for damages for injury thereto; to do any and all things necessary or incident to the powers hereby granted, or to carry out any of the objects and purposes of this act; to require, by appropriate legal proceedings, the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal, so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along any channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to require the removal or alteration thereof for that purpose. However, nothing in this act contained shall be deemed to authorize the district in exercising any of its powers to take, damage or destroy any property or to require the removal, relocation, alteration or destruction of any bridge, railroad, wire line, pipeline, facility or other structure unless just compensation therefor be first made, in the manner and to the extent required by the Constitution of the United States and the Constitution of California.

The board of supervisors of the district is hereby vested with full power to do all other acts or things necessary or useful for the promotion of the work of the control of the floodwater and stormwater of the district, and to conserve those waters for beneficial and useful purposes, and to protect from damage from floodwater and stormwater, the harbors, waterways, public highways, and property in the district. However, this act does not authorize the district, or any person or persons, to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person or persons having any interest in such river,

creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless previous compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses. This act does not affect the plenary power of any incorporated city, city and county, or town, or municipal or county water district, to provide for a water supply of that public corporation, or as affecting the absolute control of any properties of that public corporations necessary for the water supply, and this act does not vest any power of control over the properties in the Los Angeles County Flood Control District, or in any officer thereof, or in any person referred to in this act. This act does not authorize the board of supervisors to raise money for the district by any method or system other than that by the issuing of bonds, the levying of a tax, or the imposition of a fee or charge in compliance with Article XIII D of the California Constitution, in the manner in this act provided, except from the sale and lease of its property as provided in this act.